



150 South Fifth Street
Suite 2200
Minneapolis, MN 55402

Heather J. Kliebenstein
612.371.5381
hkliebenstein@merchantgould.com

February 10, 2020

VIA ECF

Honorable David T. Schultz
United States District Court
9E U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

**Re: *Fair Isaac Corp. v. Federal Insurance Co. et al.*,
No. 16-cv-01054-WMW-DTS (D. Minn. filed April 21, 2016)**

Dear Judge Schultz:

This letter request relates to FICO's engagement of a consulting expert, Mr. Brian Sacco, to review the Blaze Advisor applications and their deployment of defendants' business rules produced in response to FICO's Request for Production 90.

The Court will recall it ordered this production in response to RFP 90 on June 4, 2019. (Dkt. 305.) That Order was affirmed on October 21, 2019. (Dkt. 593.) Federal's production was made in the proper format on December 17, 2019, one day before the hearing on the parties' dispositive motions. Defendants' actions have substantially delayed the progress of the case in this regard.

Because defendants' business rules are designated Attorneys' Eyes Only under the protective order, and because defendants' refused FICO's request to have one of its technical experts assist counsel in the analysis of this production, FICO engaged a

Honorable David T. Schultz
February 10, 2020
Page **2** of **2**

consulting expert, Mr. Brian Sacco. FICO provided Mr. Sacco's CV and confirmation that Mr. Sacco signed the written assurances under the Protective Order on January 16, 2020.

Federal objects to Mr. Sacco viewing this Attorneys' Eyes Only information. We understand Federal has contacted chambers to schedule a hearing date on its motion for a protective order. The purpose of this letter is to request either that this motion is decided without a hearing or that an early hearing date is set. A substantial amount of time has passed since FICO served RFP 90, in December 2018. FICO's trial preparation should not be further prejudiced by further delay.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Kliebenstein", with a stylized flourish at the end.

Heather J. Kliebenstein